

The Gazette of India



EXTRAORDINARY

PART II—Section 2

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LOK SABHA

The following Bills were introduced in Lok Sabha on the 16th November, 1959:—

BILL No. 77 OF 1959

A bill further to amend the Indian Penal Code.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 1959. Short title,
extent and
commence-
ment.

5 (2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

45 of 1860.

2. After section 363 of the Indian Penal Code, the following Insertion of
new section
363A.
10 section shall be inserted, namely:—

‘363A. (1) Whoever kidnaps any minor or, not being the lawful guardian of a minor, obtains the custody of the minor, in order that such minor may be employed or used for the purposes of begging shall be punishable with imprisonment of either Kidnapping
or maiming
a minor for
purposes of
begging.
15 description for a term which may extend to ten years, and shall also be liable to fine.

(2) Whoever maims any minor in order that such minor may be employed or used for the purposes of begging shall be punishable with imprisonment for life, and shall also be
20 liable to fine.

(3) Where any person, not being the lawful guardian of a minor, employs or uses such minor for the purposes of begging, it shall be presumed, unless the contrary is proved, that he kidnapped or otherwise obtained the custody of that minor in order that the minor might be employed or used for the purposes of begging. 5

(4) In this section,—

(a) “begging” means—

(i) soliciting or receiving alms in a public place, whether under the pretence of singing, dancing, 10 fortune-telling, performing tricks or selling articles or otherwise;

(ii) entering on any private premises for the purpose of soliciting or receiving alms;

(iii) exposing or exhibiting, with the object of 15 obtaining or extorting alms, any sore, wound, injury, deformity or disease, whether of himself or of any other person or of an animal;

(iv) using a minor as an exhibit for the purpose of soliciting or receiving alms; 20

(b) “minor” means—

(i) in the case of a male, a person under sixteen years of age; and

(ii) in the case of a female, a person under eighteen years of age.’. 25

Amendment
of Schedule
II, Act 5 of
1898.

3. In the Code of Criminal Procedure, 1898, in Schedule II, after the entry relating to section 363 of the Indian Penal Code, the following entry shall be inserted, namely:—

5 of 1898.
45 of 1860.

5	1	2	3	4	5	6	7	8
10	363A	Kidnapping, or obtaining the custody of, a minor, in order that such minor may be employed or used for purposes of begging.	May arrest without warrant.	Warrant	Not bail-able.	Not com-poundable	Imprisonment of either description for 10 years and fine	Court of Session, Presidency Magistrate, or Magistrate of the first class.
		Maiming a minor in order that such minor may be employed or used for purposes of begging.	Ditto	Ditto	Ditto	Ditto	Imprisonment for life and fine.	Court of Session".

STATEMENT OF OBJECTS AND REASONS

To put down effectively the evil of kidnapping of children for exploiting them for begging, the provisions existing in the Indian Penal Code are not quite adequate. There is also no special provision for deterrent punishment for the greater evil of maiming of children so as to make them objects of pity.

2. The Bill makes kidnapping or obtaining custody of a minor, and the maiming of a minor for employing him for begging, specific offences and provides for deterrent punishment. The Bill also makes consequential amendments in the Second Schedule to the Code of Criminal Procedure, 1898.

NEW DELHI;

G. B. PANT.

The 23rd September, 1959.

BILL No. 79 OF 1959

A bill further to amend the Constitution of India.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Eighth Amendment) Act, 1959. Short title.

5 2. (1) In article 333 of the Constitution, for the words “nominate such number of members of the community to the Assembly as he considers appropriate”, the words— Amendment
of article
333.

“nominate, in the case of the State of West Bengal, not more than two members, and, in the case of any other State, one
10 member, of the community to the Assembly”
shall be substituted.

(2) Nothing contained in sub-section (1) shall affect any representation of the Anglo-Indian community in the Legislative Assembly of any State existing at the commencement of this Act until the
15 dissolution of that Assembly.

3. In article 334 of the Constitution, for the words “ten years” the words “twenty years” shall be substituted. Amendment
of article
334.

STATEMENT OF OBJECTS AND REASONS

Article 334 of the Constitution lays down that the provisions of the Constitution relating to the reservation of seats for the Scheduled Castes and Scheduled Tribes and the representation of the Anglo-Indian community by nomination in the House of the People and the Legislative Assemblies of the States shall cease to have effect on the expiration of a period of ten years from the commencement of the Constitution. Although the Scheduled Castes and Scheduled Tribes have made considerable progress in the last ten years, the reasons which weighed with the Constituent Assembly in making provision for the aforesaid reservation of seats and nomination of members have not ceased to exist. It is, therefore, proposed to continue the reservation and the representation of Anglo-Indians by nomination for a further period of ten years.

In extending the period of nomination of members of the Anglo-Indian community, it is proposed to fix the number of such members who may be nominated by Governors to State Assemblies and an amendment of article 333 is accordingly proposed.

NEW DELHI;

G. B. PANT.

The 18th September, 1959.

BILL NO. 78 OF 1959

A bill to establish a Committee in the Port of Bombay for assisting Muslim pilgrims to Saudi Arabia, Syria, Iraq, Iran and Jordan and for matters connected therewith.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

1. This Act may be called the Haj Committee Act, 1959. Short title.
2. In this Act, unless the context otherwise requires,— Definitions.
 - 5 (a) "Committee" means the Haj Committee constituted under this Act;
 - (b) "pilgrim" means a Muslim proceeding on or returning from pilgrimage to Saudi Arabia, Syria, Iraq, Iran or Jordan;
 - 10 (c) "pilgrim ship" means a ship conveying or about to convey pilgrims from or to the port of Bombay to or from any port in the Red Sea other than Suez;
 - (d) "prescribed" means prescribed by rules made under this Act.
3. (1) With effect from such date as the Central Government Incorporation of Haj Committee.
15 may, by notification in the Official Gazette, appoint in this behalf, there shall be established a Committee by the name of the Haj Committee.
(2) The said Committee shall be a body corporate having perpetual succession and a common seal and shall by the said name sue
20 and be sued.

Composition
of the Com-
mittee.

4. (1) The Committee shall consist of the following members, namely:—

- (a) the Collector of Customs, Bombay, *ex officio*;
- (b) the Chairman, Port Trust, Bombay, *ex officio*;
- (c) the Principal Officer, Mercantile Marine Department, Bombay, *ex officio*; 5
- (d) the Commissioner of Police for Greater Bombay, *ex officio*;
- (e) the Municipal Commissioner, Greater Bombay, *ex officio*; 10
- (f) the Port Health Officer, Bombay, *ex officio*;
- (g) two members to be nominated by the Central Government;
- (h) three members of Parliament of whom two are to be nominated by the Speaker of the House of the People from among 15 its members and one by the Chairman of the Council of States from among its members;
- (i) one member to represent the State Government of Bombay to be nominated by that Government;
- (j) two members of the Bombay State Legislative Assembly 20 to be nominated by the Speaker of that Assembly;
- (k) two members of the Municipal Corporation of Greater Bombay to be nominated by the State Government of Bombay on the recommendation of the Muslim members of the Municipal Corporation of Greater Bombay; 25
- (l) three members, of whom two shall be Shia Muslims, to be co-opted by all the members of the Committee to represent such interests as, in their opinion, are directly and actively interested in the welfare of the pilgrims.

(2) Every nomination under this section shall take effect as soon 30 as it is notified by the Central Government in the Official Gazette.

Nomination
and co-
option of
members.

5. (1) The members of the Committee shall be nominated or co-opted in such manner as may be prescribed.

(2) As soon as may be after the nomination of the members of the Committee and the co-option of the members referred to in clause (l) 35 of sub-section (1) of section 4, the Central Government shall publish

in the Official Gazette a list of the names of all members nominated and co-opted:

Provided that the failure to co-opt a member shall not prevent the Central Government from making nominations or from publishing the list of members as provided in this sub-section:

Provided further that the list of members of a new Committee shall not be published before the expiry of three years from the date of the publication of the list of members of the Committee which it is replacing.

10 6. (1) After the publication of the list of members of the Committee under sub-section (2) of section 5, the Central Government shall direct the Committee to elect one of its members to be the Chairman within such time as may be specified in the direction. Chairman
and Vice-
Chairmen.

(2) If within the time so specified the Committee fails to elect a Chairman, the Central Government may appoint a member of the Committee to be the Chairman thereof.

(3) The Chairman shall exercise such powers and discharge such duties as may be prescribed.

20 (4) The Committee shall elect from among its members not more than two members to be Vice-Chairmen who shall exercise such powers and discharge such duties as may be determined by bye-laws made in this behalf by the Committee.

(5) The appointment or election of the Chairman and the Vice-Chairmen shall be notified by the Central Government in the Official Gazette.

7. The term of office of the members of the Committee (other than the *ex officio* members and members filling casual vacancies) shall be not less than three years, commencing on the day following the publication of the list of members under sub-section (2) of section 5, and ending on the date of the publication of the list of members of the next Committee. Term of
office.

8. (1) At such time as the Central Government may deem to be expedient before or after the expiry of the period of three years after the publication of the list of members of a Committee under sub-section (2) of section 5, the Central Government shall take or cause to be taken all necessary steps for the nomination and co-option of members of the new Committee. Constitution
of new Com-
mittees.

(2) No person shall be ineligible for nomination or co-option to the new Committee on the ground that he is or has been a member of the Committee.

Duties of
Committee.

9. (1) The duties of the Committee shall be—

(a) to collect and disseminate information useful to pilgrims;

(b) to advise and assist pilgrims during their stay in the city and the port of Bombay, while proceeding on or returning from pilgrimage, in all matters including vaccination, inoculation, medical inspection and issue of passes and passports, and to co-operate with the local authorities concerned in such matters;

(c) to give relief to indigent pilgrims; 10

(d) to negotiate and co-operate with railways, shipping companies, airways and travel agencies for the purpose of securing travelling facilities for pilgrims;

(e) to find suitable guides for employment by shipping companies on pilgrim ships; 15

(f) to bring the grievances of pilgrims and any irregularities or omissions on the part of a master or owner of a pilgrim ship in carrying out the provisions of the Indian Merchant Shipping Act, 1923, to the notice of the authorities concerned, and to suggest remedies; 21 of 192

(g) to appoint a pilgrim as "Amirul-Haj" on board a pilgrim ship to represent the grievances of the pilgrims to the master or owner of the ship; 20

(h) generally to look after the welfare of the pilgrims; and

(i) to discharge such other duties in connection with pilgrim traffic as may be prescribed. 25

(2) The Central Government shall afford all reasonable assistance to the Committee in the discharge of the duties imposed by this section.

Meetings of
Committee.

10. (1) The Committee shall meet at least once in every month during the four months before the Haj Day and during the two months after the Haj Day, and at least once in three months during the rest of the year. 30

(2) The number of members required to make a quorum at any meeting shall be six. 35

(3) All matters shall be decided by a majority of votes of the members present, and in the event of an equality of votes, the Chair- or other person presiding shall have a casting vote.

11. No act or proceeding of the Committee shall be invalid by reason only of the existence of any vacancy among its members or any defect in the constitution thereof.

Vacancies, etc., not to invalidate acts or proceedings of the Committee.

12. (1) The Central Government shall, in consultation with the Committee, appoint a person to be the Executive Officer thereof who shall also be the Secretary to the Committee.

Executive officer and other employees.

(2) The Committee shall, subject to the approval of the Central Government, appoint such other employees as it may consider necessary for the efficient discharge of its duties under this Act.

10 13. (1) The Committee shall appoint one or more sub-committees consisting of such number of its members as it thinks fit for the inspection of pilgrim ships.

Sub-committees and inspection of pilgrim ships.

21 of 1923.

15 (2) Any such sub-committee when inspecting a pilgrim ship shall be accompanied by the certifying officer appointed for the port under section 151 of the Indian Merchant Shipping Act, 1923, or by the Surveyor of the ship or other person deputed by the certifying officer.

20 (3) The Executive Officer of the Committee, or a sub-committee appointed under sub-section (1) may enter and inspect any pilgrim ship advertised or offering to sail from, or which has returned to, the port of Bombay.

(4) A master or any officer of a pilgrim ship who fails to render reasonable facilities for such inspection shall be punishable with fine which may extend to five hundred rupees.

25 (5) No magistrate other than a presidency magistrate or magistrate of the first class shall take cognizance of an offence punishable under sub-section (4), and such magistrate shall take cognizance of such offence only on written complaint by the Chairman of the Committee.

30 (6) The Committee may also appoint other sub-committees for such purposes as it may think fit and any such sub-committee shall consist of such number of members and other persons as may be determined by bye-laws made in this behalf by the Committee.

35 14. The Committee shall have its own Fund to be called the Haj Fund, and there shall be placed to the credit thereof the following sums, namely:—

(a) the interest on all deposits made by pilgrims under clause (b) of section 208A of the Indian Merchant Shipping Act, 1923;

(b) the fees charged for the registration of pilgrim passes in pursuance of any rule made under section 213 of the Indian Merchant Shipping Act, 1923;

21 of 1923.

(c) the sums realised from the sale of the effects of deceased pilgrims and sums of money left by deceased pilgrims, which are unclaimed and have lapsed to the Government;

(d) any fees which may be levied for the issue of visitors' passes to friends and relations of pilgrims who desire to go on board a pilgrim ship;

(e) the amount standing at the commencement of this Act to the credit of the Fund known as the Indigent Pilgrims Fund: Provided that such amount shall be applied by the Committee solely for the relief of indigent pilgrims;

(f) any sums received by the Haj Fund from private sources; and

15

(g) any sums allotted by the Central Government or any State Government to the Haj Fund.

Vesting of property in the Committee.

15. All property, assets and funds owned or acquired, before the establishment of the Committee under this Act, by the Port Haj Committee of Calcutta and the Port Haj Committee of Bombay constituted under the Port Haj Committees Act, 1932, shall, on such establishment, vest in the Committee and form part of the Haj Fund referred to in section 14.

20 of 1932.

Application of the Haj Fund.

16. The Haj Fund shall, subject to any rules that may be made under this Act, be under the control and management of the Committee, and shall be applied to the following purposes, namely:—

(a) pay and allowances of the Executive Officer and other employees of the Committee;

(b) payment of charges and expenses incidental to the objects specified in section 9;

30

(c) any other object specified in the rules made under section 17.

Power to make rules.

17. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of nomination and co-option of members of the Committee.

- (b) the disqualifications for being chosen as, or for being, members of the Committee;
- (c) the manner in which doubts and disputes relating to co-option of members may be determined;
- 5 (d) the filling up of casual vacancies in the office of the Chairman and other members of the Committee;
- (e) the removal of the Chairman and other members of the Committee and their resignation from office;
- 10 (f) the term of office of the Chairman and his powers and duties;
- (g) the duties which may be entrusted to the Committee;
- (h) the powers and duties of the Executive Officer and the conditions of service of the Executive Officer and other employees of the Committee;
- 15 (i) the custody of the Haj Fund and the investment of balances therein;
- (j) the objects for which the Haj Fund may be applied;
- (k) the limit of expenditure which may be incurred by the Committee without sanction of the Central Government;
- 20 (l) the accounts to be kept by the Committee and the audit of such accounts;
- (m) the preparation, submission and approval of the budget of the Committee;
- 25 (n) the returns, statements and reports to be submitted by the Committee;
- (o) any other matter which is to be, or may be, prescribed.

(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised
30 in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no
35 effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to
make bye-
laws.

18. (1) The Committee may make bye-laws not inconsistent with this Act or the rules made thereunder—

(a) prescribing the manner of election of the Vice-Chairmen;

(b) prescribing the term of office and the powers and 5 duties of the Vice-Chairmen;

(c) regulating the removal or resignation of a Vice-Chairman and the filling up of casual vacancies in the office of Vice-Chairman;

(d) regulating the convening of the meetings of the Com- 10 mittee and the conduct of business thereat;

(e) prescribing the registers and records to be maintained;

(f) providing for the publication of its proceedings and any matter of interest to pilgrims; and

(g) providing for any other matter which the Committee 15 deems necessary for giving effect to the provisions of this Act.

(2) Bye-laws made by the Committee under this section shall be submitted to the Central Government and shall not take effect until they have been confirmed by the Central Government.

(3) Bye-laws which have been confirmed by the Central Govern- 20 ment shall be published in the Official Gazette.

Repeal and
savings.

19. (1) The Port Haj Committees Act, 1932, is hereby repealed. 20 of 1932.

(2) Notwithstanding such repeal, the Port Haj Committee of Bombay constituted under the said Act shall, until the establishment of the Committee under this Act, continue to function as if this Act 25 had not been passed and on such establishment of the Committee, the Port Haj Committee of Bombay shall stand dissolved.

STATEMENT OF OBJECTS AND REASONS

According to the Port Haj Committees Act, 1932, as originally enacted, three Port Haj Committees were constituted at the three ports of Bombay, Calcutta and Karachi. Consequent upon constitutional changes in the country, the Act was suitably amended to provide for the continuance of the Calcutta and the Bombay Committees only, the reference to the Karachi Committee being omitted therefrom. The Calcutta Committee, however, ceased to function from 1948 owing to the partition of Bengal and there is a balance of about Rs. 15,000 lying to the credit of the defunct Port Haj Fund, Calcutta, which cannot be utilised for any other purpose or transferred to any Port Haj Fund unless the Act is amended. Further all pilgrim traffic to Saudi Arabia, Iraq and Iran is now centralised at Bombay.

2. It is, therefore, considered desirable that the Act should be revised to bring it in line with the present requirements of the Haj pilgrims and to make the Port Haj Committee a representative body of the country.

3. The Bill seeks to achieve this object.

NEW DELHI;

LAKSHMI N. MENON.

The 23rd September, 1959.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 17 empowers the Central Government to make rules generally for carrying out the purposes of the Bill when enacted and sub-clause (2) enumerates the various matters in respect of which rules may be made. These matters relate, among others, to nomination, co-option, disqualification, resignation, etc., of the members of the Committee, filling up of casual vacancies in the office of Chairman or other member, term of office of the Chairman and his powers and duties, accounts to be kept by the Committee and their audit and preparation of the budget of the Committee.

2. Clause 18 empowers the Haj Committee to make bye-laws which are not inconsistent with the provisions of the Bill or the rules made thereunder, in regard to the manner of election, term of office, powers and duties, removal and resignation of the Vice-Chairmen of the Committee, conduct of business at the meetings of the Committee, maintenance of registers and records, publication of proceedings and matters of interest to pilgrims, and any other matter considered necessary for giving effect to the provisions of the Bill. The bye-laws are subject to confirmation by the Central Government.

3. The rules and bye-laws will thus be confined to matters of procedure and the delegation of legislative powers both to the Central Government and the Committee is of a normal type.

M. N. KAUL,
Secretary.

CORRIGENDA

In the Gazette of India Extraordinary Part II—Section 2—

1. No. 32, dated the 3rd August, 1959, page 655, line 32 from the top read "23 of 1955" as marginal reference.
2. No. 33, dated the 3rd August, 1959:—
 - (i) Page 688, line 6 from the top for "substituted" read "substituted";
 - (ii) Page 692, line 30 from the top for "commencemnt" read "commencement";

- (iii) Page 695, line 34 from the top for "provisions" read "provision".
- 3. No. 34, dated the 3rd August, 1959:—
 - (i) Page 705, line 1 from the top for "principle" read "principal";
 - (ii) Page 708, line 17 from the top for "distributions" read "distribution".
- 4. No. 35, dated the 12th August, 1959, page 726, line 37 from the top for "jurisdiction" read "jurisdiction".
- 5. No. 36, dated the 10th August, 1959, page 808, line 42 from the top for "sme" read "same".
- 6. No. 45, dated the 31st August, 1959:—
 - (i) Page 946, line 35 from the top for "conflict" read "conflict";
 - (ii) Page 974, line 10 from the top for "dae" read "date";
 - (iii) Page 1027, line 34 from the top for "repatriated" read "repatriated";
 - (iv) Page 1057, Article 51, read "Enlistment Labour" as marginal heading;
 - (v) Page 1072, line 6 from the top for "veneral" read "venereal".
- 7. No. 46, dated the 2nd September, 1959, Page 1104, clause 4, line 2 of the marginal reference after "Ordinance" read "4".
- 8. No. 47, dated the 4th September, 1959:—
 - (i) Page 1124, clause 52, for "Annual leave wages" read "Annual leave with wages" as marginal heading;
 - (ii) Page 1138, line 12 from the top delete "that" appearing after "dispensaries and that";
 - (iii) Page 1141, for the existing line 8 from the top read "tions 49 to 56 relating to leave with wages. The important amend-".

